

**From:** Munoz, Charles  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Ethics Training with Byron Brown, Deputy Chief of Staff for Policy  
**Start Date/Time:** Thur 3/9/2017 3:00:00 PM  
**End Date/Time:** Thur 3/9/2017 4:00:00 PM

**To:** Brown, Byron[brown.byron@epa.gov]  
**Cc:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Fort, Daniel  
**Sent:** Tue 5/16/2017 12:10:47 PM  
**Subject:** RE: Integrity question

Yes, that's a number for EPA's directory. When an account is created, Integrity requires a telephone number. You did not have a phone number when you started, so I gave you that one. It isn't really used for anything, according what I heard from the Office of Government Ethics. It also doesn't appear in the printable version of your report for release. If you'd like to change that number, that can be done.

**From:** Brown, Byron  
**Sent:** Monday, May 15, 2017 7:15 PM  
**To:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Cc:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** Integrity question

I am working on my Financial Disclosure report, and the phone number listed for me is 202 272-1067. Do you know where that came from, or who's number that is?

Byron R. Brown

Deputy Chief of Staff for Policy

Office of the Administrator

U.S. Environmental Protection Agency

**To:** Bolen, Brittany[bolen.brittany@epa.gov]  
**Cc:** Fugh, Justina[Fugh.Justina@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Fri 4/14/2017 8:14:42 PM  
**Subject:** Re: possible recusal issue for you?

Also I would add that the brief represented congress's view of the CPP based on publicly available information. We were not privy to any confidential material regarding the litigation.

Sent from my iPhone

On Apr 14, 2017, at 3:41 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:

Mandy and I would like your clarification in regards to WV v. EPA. We were not privy to any confidential information. The amicus brief was written and filed by an outside law firm on behalf of members of congress, not the Environment and Public Works Committee.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:32 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** RE: possible recusal issue for you?

Thanks for the confirmation!

**From:** Brown, Byron  
**Sent:** Friday, April 14, 2017 3:30 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** RE: possible recusal issue for you?

I did not work on these amicus briefs and was not privy to confidential information about these cases or briefs.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:11 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Subject:** possible recusal issue for you?

Hi there,

I have learned that DOJ is advising that some of their appointees recuse from certain cases in which members of Congress filed amicus briefs during the last several years. Their appointees have recused from any participation in these cases:

- ☐ Kent Recycling Services v. US Army Corps of Engineers, U.S. Supreme Court, No. 14-493
- ☐ American Farm Bureau Fed. v. USEPA, Third Circuit Court of Appeals, No. 13-4079 (docket attached)
- ☐ West Virginia v. EPA (see Brief of 200+ members of Congress)

What I don't know is whether you all, who also worked for the Senate in the last several years, should similarly be recused. Did you work on or were privy to confidential client information with respect to any of these cases?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Brown, Byron[brown.byron@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]; ethics[ethics@epa.gov]  
**From:** ethics  
**Sent:** Wed 3/29/2017 4:14:23 PM  
**Subject:** RE: Integrity.gov: Filing Reminder Assignment

Good Morning, Byron,

I have granted you a 30-day extension in Integrity. Please let me know if you do not receive a notification.

-Jeanne

-----Original Message-----

From: Brown, Byron  
Sent: Tuesday, March 28, 2017 7:50 AM  
To: Fugh, Justina <Fugh.Justina@epa.gov>; ethics <ethics@epa.gov>  
Subject: FW: Integrity.gov: Filing Reminder Assignment

I would like to request an extension of the filing deadline of up to 30 days if possible. Thanks. -- Byron

-----Original Message-----

From: Integrity.gov [mailto:notifications@integrity.gov]  
Sent: Thursday, March 23, 2017 11:43 AM  
To: Brown, Byron <brown.byron@epa.gov>  
Subject: Integrity.gov: Filing Reminder Assignment

This notice is a reminder that your 2017 New Entrant report is due on 04/03/2017. You may access the report by logging into Integrity at <https://integrity.gov>. If you have any questions concerning the filling out of the form, you can send a note to [ethics@epa.gov](mailto:ethics@epa.gov) and we'll get back to you within 48 hours.

Please let us know if you need an extension by sending an email to Justina Fugh or sending a request to [ethics@epa.gov](mailto:ethics@epa.gov).

Also, check out our intranet site in INTEGRITY for more information:  
<http://intranet.epa.gov/ogc/Integrity/Landingpage.html>

For additional guidance about filling out the OGE-278 annual and OGE-278-T periodic financial disclosure form, see: <https://www2.oge.gov/Web/278eGuide.nsf>

**To:** Brown, Byron[brown.byron@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Fort, Daniel  
**Sent:** Mon 3/6/2017 6:44:53 PM  
**Subject:** What **Ex. 6 - Personal Privacy**

## Ex. 6 - Personal Privacy

## Ex. 6 - Personal Privacy

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:54 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** RE: Checking in

## Ex. 6 - Personal Privacy

**From:** Fugh, Justina  
**Sent:** Monday, March 6, 2017 12:37 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** RE: Checking in

## Ex. 6 - Personal Privacy

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:36 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

Just to clarify, they are Ex. 6 - Personal Privacy

**From:** Fugh, Justina  
**Sent:** Monday, March 6, 2017 12:29 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

Hi Bryon,

When you start your new entrant report, you'll see the due date, which is within the next 30 days. I'm not in the office today, so I can't readily see your exact due date but Dan could look it up for you. Also, Dan confirmed for me that, because Ex. 6 - Personal Privacy you will not qualify for any de minimis exemption at all. You will not be permitted to work on any particular matter that involves oil and gas production and exploration, including hydraulic fracturing.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:18 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** Checking in

Justina – I have received the link to the Integrity website. Is there a deadline for completing the financial disclosure form? I also have additional information about the **Ex. 6 - Personal Privacy** **Ex. 6 - Personal Privacy** Please let me know if you'd like me to stop by to discuss or how you want to proceed. Thanks. - Byron



**To:** Brown, Byron[brown.byron@epa.gov]  
**Cc:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Fort, Daniel  
**Sent:** Mon 3/6/2017 6:00:22 PM  
**Subject:** FYI: The due date on your new entrant report is April 3. <EOM>

**From:** Fugh, Justina  
**Sent:** Monday, March 06, 2017 12:29 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** RE: Checking in

Hi Bryon,

When you start your new entrant report, you'll see the due date, which is within the next 30 days. I'm not in the office today, so I can't readily see your exact due date but Dan could look it up for you. Also, Dan confirmed for me that, because **Ex. 6 - Personal Privacy** you will not qualify for any de minimis exemption at all. You will not be permitted to work on any particular matter that involves oil and gas production and exploration, including hydraulic fracturing.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:18 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** Checking in

Justina – I have received the link to the Integrity website. Is there a deadline for completing the

financial disclosure form? I also have additional information about the **Ex. 6 - Personal Privacy**

**Ex. 6 - Personal Privacy**

Please let me know if

you'd like me to stop by to discuss or how you want to proceed. Thanks. - Byron

**To:** Brown, Byron[brown.byron@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Thur 5/18/2017 1:14:00 AM  
**Subject:** RE: reminder about your new entrant report

Once you file, we will review for technical completion (did you report everything correctly?) and do a conflicts review. If necessary, we will issue a cautionary note and write a recusal statement for you. If we need to ask you questions or follow up with you, we will do so. As soon as we are able, we will then certify the report. We are obliged to release your report within 30 days of when we receive it, but EPA works hard to be able to release a certified – as opposed to uncertified – report. We do not typically go over the report with you prior to release, so I don't quite know what you mean. Most people have to go through at least a couple of go-rounds with us, so you'll see any changes that we will ask you to make or that we will make for you.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Wednesday, May 17, 2017 8:51 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** Re: reminder about your new entrant report

Thanks. I have been working on it and expect to finish tomorrow. Can you let me know what the next steps are and if you review with me before it's made public?

Sent from my iPhone

On May 17, 2017, at 8:39 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Dear Byron,

I am writing to remind you about your obligation to file a new entrant public financial disclosure report by 5/18/17. There is a 30 day grace period following the end of your deadline, but if EPA Ethics does not receive your final report by midnight of June 17, 2017, then you will be subject to a \$200 late filing fee. You will of course still have to file the report too!

If you need more time, then just send me an email. We are able to give you one more extension of an additional 45 days, but you have to provide a reason for why you need more time (e.g., need to gather materials, travel, workload, etc.). If you have any questions regarding this requirement or need assistance, please contact Dan Fort at [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or 202 564 2200 or me at [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or 202 564 1786.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Brown, Byron[brown.byron@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Thur 5/18/2017 12:39:51 AM  
**Subject:** reminder about your new entrant report

Dear Byron,

I am writing to remind you about your obligation to file a new entrant public financial disclosure report by 5/18/17. There is a 30 day grace period following the end of your deadline, but if EPA Ethics does not receive your final report by midnight of June 17, 2017, then you will be subject to a \$200 late filing fee. You will of course still have to file the report too!

If you need more time, then just send me an email. We are able to give you one more extension of an additional 45 days, but you have to provide a reason for why you need more time (e.g., need to gather materials, travel, workload, etc.). If you have any questions regarding this requirement or need assistance, please contact Dan Fort at [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or 202 564 2200 or me at [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or 202 564 1786.

Thanks,  
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Brown, Byron[brown.byron@epa.gov]; Fort, Daniel[Fort.Daniel@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Tue 5/16/2017 11:51:34 PM  
**Subject:** RE: Integrity question

EIF stands for an excepted investment fund. If your asset is a diversified mutual fund, you can select YES. Or you can ignore it and we'll fix it for you later.

**From:** Brown, Byron  
**Sent:** Tuesday, May 16, 2017 7:06 PM  
**To:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Cc:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** RE: Integrity question

Thanks. I am making my way through the report, and there is a drop down menu for the asset section page that says EIF. What is that for?

Thanks.

**From:** Fort, Daniel  
**Sent:** Tuesday, May 16, 2017 8:11 AM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** RE: Integrity question

Yes, that's a number for EPA's directory. When an account is created, Integrity requires a telephone number. You did not have a phone number when you started, so I gave you that one. It isn't really used for anything, according what I heard from the Office of Government Ethics. It also doesn't appear in the printable version of your report for release. If you'd like to change that number, that can be done.

**From:** Brown, Byron

**Sent:** Monday, May 15, 2017 7:15 PM  
**To:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Cc:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** Integrity question

I am working on my Financial Disclosure report, and the phone number listed for me is 202 272-1067. Do you know where that came from, or who's number that is?

Byron R. Brown

Deputy Chief of Staff for Policy

Office of the Administrator

U.S. Environmental Protection Agency

**To:** Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 4/14/2017 7:31:30 PM  
**Subject:** RE: possible recusal issue for you?

Thanks for the confirmation!

**From:** Brown, Byron  
**Sent:** Friday, April 14, 2017 3:30 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** RE: possible recusal issue for you?

I did not work on these amicus briefs and was not privy to confidential information about these cases or briefs.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:11 PM  
**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** possible recusal issue for you?

Hi there,

I have learned that DOJ is advising that some of their appointees recuse from certain cases in which members of Congress filed amicus briefs during the last several years. Their appointees have recused from any participation in these cases:

● Kent Recycling Services v. US Army Corps of Engineers, U.S. Supreme Court, No. 14-493



- [REDACTED] American Farm Bureau Fed. v. USEPA, Third Circuit Court of Appeals, No. 13-4079 (docket attached)
- [REDACTED] West Virginia v. EPA (see [Brief of 200+ members of Congress](#))

What I don't know is whether you all, who also worked for the Senate in the last several years, should similarly be recused. Did you work on or were privy to confidential client information with respect to any of these cases?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Fugh, Justina  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Accepted: Ethics Training with Byron Brown, Deputy Chief of Staff for Policy  
**Start Date/Time:** Thur 3/9/2017 3:00:00 PM  
**End Date/Time:** Thur 3/9/2017 4:00:00 PM

**To:** Fort, Daniel[Fort.Daniel@epa.gov]; Brown, Byron[brown.byron@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Mon 3/6/2017 6:54:47 PM  
**Subject:** RE: What { **Ex. 6 - Personal Privacy** }

Thanks, Dan.

Byron -- you will not qualify for any de minimis exemption at all. You will not be permitted to work on any particular matter that involves oil and gas production and exploration, including hydraulic fracturing.

**From:** Fort, Daniel  
**Sent:** Monday, March 06, 2017 1:45 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** What { **Ex. 6 - Personal Privacy** }

**Ex. 6 - Personal Privacy**

**Ex. 6 - Personal Privacy**

**From:** Brown, Byron

**Sent:** Monday, March 06, 2017 12:54 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

## Ex. 6 - Personal Privacy

**From:** Fugh, Justina  
**Sent:** Monday, March 6, 2017 12:37 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

## Ex. 6 - Personal Privacy

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:36 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

Just to clarify, they are Ex. 6 - Personal Privacy

**From:** Fugh, Justina  
**Sent:** Monday, March 6, 2017 12:29 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** RE: Checking in

Hi Bryon,

When you start your new entrant report, you'll see the due date, which is within the next 30 days. I'm not in the office today, so I can't readily see your exact due date but Dan could look it up for you. Also, Dan confirmed for me that, because Ex. 6 - Personal Privacy you will not qualify for any de minimis exemption at all. You will not be permitted to work on any particular matter that involves oil and gas production and exploration, including hydraulic fracturing.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:18 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** Checking in

Justina – I have received the link to the Integrity website. Is there a deadline for completing the financial disclosure form? I also have additional information about the Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy Please let me know if you'd like me to stop by to discuss or how you want to proceed. Thanks. - Byron

**To:** Brown, Byron[brown.byron@epa.gov]  
**Cc:** Fort, Daniel[Fort.Daniel@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Mon 3/6/2017 5:37:05 PM  
**Subject:** RE: Checking in

## Ex. 6 - Personal Privacy

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:36 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** RE: Checking in

Just to clarify, they are **Ex. 6 - Personal Privacy**

**From:** Fugh, Justina  
**Sent:** Monday, March 6, 2017 12:29 PM  
**To:** Brown, Byron <brown.byron@epa.gov>  
**Cc:** Fort, Daniel <Fort.Daniel@epa.gov>  
**Subject:** RE: Checking in

Hi Bryon,

When you start your new entrant report, you'll see the due date, which is within the next 30 days. I'm not in the office today, so I can't readily see your exact due date but Dan could look it up for you. Also, Dan confirmed for me that, **Ex. 6 - Personal Privacy** you will not

qualify for any de minimis exemption at all. You will not be permitted to work on any particular matter that involves oil and gas production and exploration, including hydraulic fracturing.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Brown, Byron  
**Sent:** Monday, March 06, 2017 12:18 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Fort, Daniel <[Fort.Daniel@epa.gov](mailto:Fort.Daniel@epa.gov)>  
**Subject:** Checking in

Justina – I have received the link to the Integrity website. Is there a deadline for completing the financial disclosure form? I also have additional information about the **Ex. 6 - Personal Privacy**  
**Ex. 6 - Personal Privacy** Please let me know if you'd like me to stop by to discuss or how you want to proceed. Thanks. - Byron

**To:** Brown, Byron[brown.byron@epa.gov]  
**Cc:** Daniel Fort[Fort.Daniel@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Thur 3/2/2017 3:11:35 PM  
**Subject:** Your ethics obligations for your possible EPA position  
Distinctions between Reporting Transactions on the OGE 278 - January 201....docx  
Hatch Act chart February 2017.docx

Hi there,

I understand that you are being considered for an AD position as the Deputy Chief of Staff in the Immediate Office of the Administrator. Congratulations! In this position, you will be required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. My office reviews your information to assess any possible ethics implications. We can ask you to start filling out the report now, but it is officially due no later than 30 days after you start at EPA. That said, until you complete the report, we won't have a handle on your possible conflicts issues and can't write a recusal statement for you, which may affect what you work on initially.

EPA uses an entirely electronic filing system (called INTEGRITY.gov or INTEGRITY), so you will file the form (called the OGE 278e) electronically. You are required by law to complete the form, so please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

#### THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). You will be assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> .

Once you receive the email from INTEGRITY.gov that will provide you with specific



instructions, log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

## DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

## HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's

employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.

- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the “nothing to report” button

## OTHER ETHICS REQUIREMENTS FOR YOU

### STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at [http://intranet.epa.gov/ogc/ethics/Ethics\\_Advisory\\_2012-03.pdf](http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf) and our revised chart, also attached.

### HATCH ACT

You will be “lesser restricted” under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet (inside the firewall), can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

-

### CONTACTS

Dan Fort, Rich Lumley, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at [ethics@epa.gov](mailto:ethics@epa.gov) or individually at:

Jeanne Duross, Ethics Attorney, [duross.jeanne@epa.gov](mailto:duross.jeanne@epa.gov) or 202-564-6595

Daniel Fort, Ethics Officer, [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or 202-564-1786

Rich Lumley, Ethics Officer, [lumley.rich@epa.gov](mailto:lumley.rich@epa.gov) or 202-564-1453

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Brown, Byron[brown.byron@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Thur 3/2/2017 3:08:30 PM  
**Subject:** Uh oh

I did not realize when we spoke yesterday that you are not yet sworn in as an EPA employee. According to HR, your paperwork is still with personnel security, so while I can talk to you about ethics issues for yourself, I can't talk to you about other agency employees or the ethics program generally.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Brown, Byron[brown.byron@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Griffo, Shannon  
**Sent:** Tue 9/26/2017 3:24:55 PM  
**Subject:** RE: recusal statement for your review and signature  
Byron Brown recusal 9 26 17.docx

Thanks for pointing this out to us. Please review the third paragraph where I added your recusal from midstream issues.

-Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

**From:** Brown, Byron  
**Sent:** Monday, September 25, 2017 4:07 PM  
**To:** Griffo, Shannon <Griffo.Shannon@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** RE: recusal statement for your review and signature

Thanks, Shannon. One other question. I have been recusing myself from particular matters involving oil and gas processing and transportation (so called midstream issues) as well. For example, I have never worked on the Clean Air Act rule or related litigation concerning methane emissions from the oil and gas industry and have recused myself from enforcement cases involving oil pipeline spills. Should add to these to third paragraph as a way to document my practice?

**From:** Griffo, Shannon

**Sent:** Wednesday, September 20, 2017 10:57 AM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** RE: recusal statement for your review and signature

Byron,

Thanks for your comments. I've made some changes to the first paragraph and corrected the typo in the third paragraph.

Take a look and let us know if you have any other questions. Once it's ready, go ahead and sign/date, then pdf a copy back to Justina and me.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

[Griffo.Shannon@epa.gov](mailto:Griffo.Shannon@epa.gov)

**From:** Brown, Byron  
**Sent:** Tuesday, September 19, 2017 2:38 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Cc:** Griffo, Shannon <[Griffo.Shannon@epa.gov](mailto:Griffo.Shannon@epa.gov)>  
**Subject:** RE: recusal statement for your review and signature

Sorry for the delay. Would it be possible to (b) (5)

(b) (5)

I also noticed a typo in the third paragraph (should be “broad” instead of “road”).

**From:** Fugh, Justina  
**Sent:** Tuesday, September 12, 2017 5:35 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Griffo, Shannon <[Griffo.Shannon@epa.gov](mailto:Griffo.Shannon@epa.gov)>  
**Subject:** FW: recusal statement for your review and signature

REMINDER: we have not yet received your signed recusal statement!

**From:** Fugh, Justina  
**Sent:** Friday, July 28, 2017 4:12 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** Griffo, Shannon <[Griffo.Shannon@epa.gov](mailto:Griffo.Shannon@epa.gov)>  
**Subject:** recusal statement for your review and signature

Hi there,

OGC/ethics is finalizing recusal statements for our recent appointees, including yours. We have previously advised you – and you have assiduously been following that advice – regarding your ethics obligations, but this document will formally notify people about your obligations. Please review the document and, if you have no changes, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me.

Thanks very much in advance!  
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772



**To:** Brown, Byron[brown.byron@epa.gov]  
**Cc:** Griffo, Shannon[Griffo.Shannon@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 7/28/2017 8:12:06 PM  
**Subject:** recusal statement for your review and signature  
Byron Brown recusal 7 25 17.docx

Hi there,

OGC/ethics is finalizing recusal statements for our recent appointees, including yours. We have previously advised you – and you have assiduously been following that advice – regarding your ethics obligations, but this document will formally notify people about your obligations. Please review the document and, if you have no changes, then print it out, sign and date it, then pdf it back to Shannon Griffo (also of OGC/ethics) and me.

Thanks very much in advance!  
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Brown, Byron[brown.byron@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Thur 6/22/2017 3:54:22 PM  
**Subject:** Byron's Recusal Confirmation

Justina – Can you please reply to this email to confirm the following is true, with regard to Byron's recusals?

## **Ex. 5 - Deliberative Process**

Thank you,

Liz Bowman

U.S. Environmental Protection Agency (EPA)

Office: 202-564-3293

## Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

**Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”**

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
<b>Personal</b> (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
<b>Affecting Official Resources</b>			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
<b>Fundraising</b>			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

\*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service

# When to Report Transactions

This table's guidance is effective beginning January 1, 2013 and for informational purposes only. Email [ethics@epa.gov](mailto:ethics@epa.gov) for specific questions.

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on the OGE 278?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes <sup>1</sup>
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds" <sup>2</sup>	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust <sup>3</sup>	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

---

<sup>1</sup> You do not report the purchase or sale of your personal residence on Schedule B unless you rent it out at any time during the reporting period.

<sup>2</sup> To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

There are several types of investment vehicles that are not excepted investment funds, including (but not limited to) managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs). You should note that the individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. If you have questions about whether a particular asset or investment vehicle is an EIF, contact [ethics@epa.gov](mailto:ethics@epa.gov).

<sup>3</sup> OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email [ethics@epa.gov](mailto:ethics@epa.gov).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

OFFICE OF  
THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Byron Brown *BBB 9/26/17*  
Deputy Chief of Staff for Policy

TO: Ryan Jackson  
Chief of Staff

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. Thus far, I have followed the advice provided by OGC/Ethics and have not participated personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. This memorandum formally notifies you of my continuing obligations to recuse myself from these matters.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I confirm that I am recused from participating personally and substantially in any particular matter that would have a direct and predictable effect on my spouse's current employer, **Hess Corporation**. I will not participate personally and substantially in any particular matter that affects Hess Corporation as a specific party or as a member of an affected class, including any particular matter of general applicability that is focused on **oil and gas exploration and production** ("upstream issues") or **oil and gas processing and transportation** ("midstream issues"). I have been advised by OGC/Ethics that my recusal does not extend to "matters" that are not yet focused on these oil and gas sectors as a discrete and identifiable class of persons. Therefore, I understand that I am not recused from participating in broad policy deliberations and actions pertaining to diverse interests, such as the risk management plan rulemaking. I understand that my recusal lasts until my spouse is no longer employed with Hess Corporation.

Because I am in an Administratively Determined position, I have been advised by OGC/Ethics that I am not considered an appointee for the purposes of Executive Order 13770 and therefore not required to sign the Trump Ethics Pledge. But as an executive branch employee, I understand that I am subject to the federal impartiality standards and have a "covered relationship" with my spouse's employer, pursuant to 5 C.F.R. § 502(b)(1)(iii).

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. I will provide a copy of this memorandum to Justina Fugh, Senior Counsel for Ethics.

cc: Justina Fugh, Senior Counsel for Ethics

**From:** Munoz, Charles  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Ethics Training with Kaitlyn Shimmin, Special Assistant to OCIR; Kevin Chmielewski, Director of Scheduling and Advance; Albert Kelly, Senior Advisor to the Administrator; Ken Wagner  
**Start Date/Time:** Wed 4/26/2017 2:30:00 PM  
**End Date/Time:** Wed 4/26/2017 4:00:00 PM



**From:** Munoz, Charles  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Ethics Training with Amy Graham, Deputy Associate Administrator for Public Engagement; Troy Lyons, Associate Administrator (OCIR) and Kenneth Wagner  
**Start Date/Time:** Wed 4/5/2017 2:00:00 PM  
**End Date/Time:** Wed 4/5/2017 3:00:00 PM

**From:** Munoz, Charles  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Ethics Training with Lincoln Ferguson, Speechwriter; Amanda Gunasekara, Senior Policy Advisor; Elizabeth Tate, Senior Advisor; Kenneth Wagner, Senior Advisor for Regional & State Affairs; Jahan Wilcox, Strategic Communications Advisor  
**Start Date/Time:** Wed 3/22/2017 2:00:00 PM  
**End Date/Time:** Wed 3/22/2017 3:30:00 PM

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Munoz, Charles[munoz.charles@epa.gov]; Willis, Sharnett[Willis.Sharnett@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Wed 4/12/2017 1:10:10 AM  
**Subject:** Re: Ethics Training with Ken Wagner

Justina:

I am traveling alone and am not letting anyone buy me anything! I will let the Administrator know of the hard hat issue. The Mine he is visiting is planning on giving him a Hard Hat this week. Can you coordinate? Talk to Tate Bennett.

My ethics questions will mostly be related to those I have had 20+ year relationships with such as dinners at homes, etc... (law school roommate,etc.) or the Administrator with whom I have been friends for 20 years?

Kenneth E. Wagner  
*Senior Advisor to the Administrator*  
*For Regional & State Affairs*  
**US Environmental Protection Agency**  
Office: 202-564-1988  
Cell: 202-309-2418  
[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Apr 11, 2017, at 5:59 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Hi Ken,

The downside of not having a chance to do your ethics training is that I have no way of knowing whether you are facing ethics challenges as you carry out your EPA duties. I certainly hope not! Do bear in mind that the Administrator signed the Trump ethics pledge so he cannot accept any gift whatsoever from a federally registered lobbyist (including, for example, a hard hat with his name stenciled on the back). I will be in the office on Tuesday, 4/25 (but not on Monday, 4/24), so go ahead and suggest a time that week when we can meet. We need an hour.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth  
**Sent:** Tuesday, April 11, 2017 8:27 PM  
**To:** Munoz, Charles <[munoz.charles@epa.gov](mailto:munoz.charles@epa.gov)>  
**Cc:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>; Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>; Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>  
**Subject:** Re: Ethics Training with Hayley Ford, Deputy White House Liaison

Charles and Justina:

I am on a long road trip for the Administrator visiting 5 regions over the next two weeks. I do not return to the office until Monday, April 24. I would like to schedule my ethics training during that week if it works?

Thanks for working with me....

Ken

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Apr 11, 2017, at 8:41 AM, Munoz, Charles <[munoz.charles@epa.gov](mailto:munoz.charles@epa.gov)> wrote:

<meeting.ics>

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Thur 5/18/2017 12:51:35 AM  
**Subject:** reminder about your new entrant report

Dear Ken,

I am writing to remind you about your obligation to file a new entrant public financial disclosure report by 6/5/17. There is a 30 day grace period following the end of your deadline, but if EPA Ethics does not receive your final report by midnight of July 5, 2017, then you will be subject to a \$200 late filing fee. You will of course still have to file the report too!

If you need more time, then just send me an email. Although we already gave you an extension, we are able to give you one more extension of an additional 45 days, but you have to provide a reason for why you need more time (e.g., need to gather materials, travel, workload, etc.). If you have any questions regarding this requirement or need assistance, please contact Dan Fort at [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or 202 564 2200 or me at [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or 202 564 1786.

Thanks,  
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Fugh, Justina  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Accepted: Ethics Training with Kaitlyn Shimmin, Special Assistant to OCIR; Kevin Chmielewski, Director of Scheduling and Advance; Albert Kelly, Senior Advisor to the Administrator; Ken Wagner  
**Start Date/Time:** Wed 4/26/2017 2:30:00 PM  
**End Date/Time:** Wed 4/26/2017 4:00:00 PM

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Tue 4/18/2017 9:16:58 PM  
**Subject:** RE: So now you're a political appointee (and have to sign the ethics pledge)!

Hi Ken,

It's not just because you're a new employee ... this language in the pledge is a little different from the Obama ethics pledge, so even ethics officials are trying to ascertain what it means. The latest guidance I have is from the Office of Government Ethics explains that the ethics pledge under Executive Order 13770 establishes two post-Government employment lobbying restrictions. *See* [LA-17-03](#) (3/20/17). Here is the relevant information, in all its glory:

The restriction in paragraph 1 of the ethics pledge prohibits a former appointee, for five years after terminating employment with an executive agency, from engaging in lobbying activities "with respect to" that agency. *See* E.O. 13770, sec. 1, par. 1. The restriction in paragraph 3 of the ethics pledge establishes the same restriction "with respect to" any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration. *See id.*; E.O. 13770 sec. 1, par. 3; sec. 2(c).

Executive Order 13770 relies partly on the definition of "lobbying activities" in the Lobbying Disclosure Act (LDA). *See* E.O. 13770, sec. 2(n). The LDA defines that term to include both "lobbying contacts" and behind-the-scenes efforts in support of such contacts. 2 U.S.C. § 1602(7). The LDA's definition of "lobbying contacts" is limited to certain types of communications and excludes 19 types of communications. 2 U.S.C. § 1602(8). Executive Order 13770 specifically excludes additional types of communications. *See* E.O. 13770, sec. 2(n).

For purposes of paragraph 1, lobbying activities are deemed to be carried out "with respect to" an agency only to the extent that they involve the following:

- (a) Any oral or written communication to a covered executive branch official of that agency; or
- (b) Efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official of that agency.

For purposes of paragraph 3, the prohibition on lobbying activities "with respect to" a covered executive branch official or non-career Senior Executive Service appointee extends to non-career Senior Executive Service appointees. Therefore, lobbying activities in paragraph 3



involve the following:

(a) Any oral or written communication to a covered executive branch official or non-career Senior Executive Service appointee; or

(b) Efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official or non-career Senior Executive Service appointee of that agency.

Gosh, I hope that's helpful! We can talk further when you come in for your new employee ethics training!

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth

**Sent:** Friday, April 14, 2017 7:59 PM

**To:** Fugh, Justina <Fugh.Justina@epa.gov>

**Subject:** Re: So now you're a political appointee (and have to sign the ethics pledge)!

Justina - being new to political and government service, I would like some guidance on what are considered lobbying activities?

Thanks in advance.

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

*For Regional and State Affairs*

**Environmental Protection Agency**

**202-564-1988 office**

**202-309-2418 cell**

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Apr 14, 2017, at 4:31 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. Now that you are in a political position, you are required to sign this pledge. When we finally meet for your new employee ethics briefing, I will cover the pledge and your obligations, and get you to sign it. But, if you're curious, I've attached the executive order here so you can see what it says, as well as the blank pledge that you will sign for me. The significant points of the Executive Order are as follows:

*If you were a federally registered lobbyist in the previous 2 years --*

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

*While you are a federal employee --*

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance.

- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

*After you leave federal service –*

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their "agent" requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you. Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

<P45 Executive Order.pdf>

<P45 Ethics Pledge blank.pdf>

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 4/14/2017 9:31:52 PM  
**Subject:** So now you're a political appointee (and have to sign the ethics pledge)!  
[P45 Executive Order.pdf](#)  
[P45 Ethics Pledge blank.pdf](#)

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. Now that you are in a political position, you are required to sign this pledge. When we finally meet for your new employee ethics briefing, I will cover the pledge and your obligations, and get you to sign it. But, if you're curious, I've attached the executive order here so you can see what it says, as well as the blank pledge that you will sign for me. The significant points of the Executive Order are as follows:

*If you were a federally registered lobbyist in the previous 2 years --*

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

*While you are a federal employee --*

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

*After you leave federal service --*

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with

- respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you. Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Wed 4/12/2017 1:45:27 AM  
**Subject:** RE: Ethics Training with Ken Wagner

Hi Ken,

Okay, I sent a note to Tate with a cc to you about the hard hats. Someone had asked me about that last week, but I have completely forgotten who it was (Liz Bowman maybe?). With respect to your questions, you haven't signed the Trump ethics pledge, so I can answer you by applying the federal gift rules solely:

1) Sure, you may accept dinner with friends so long as you have a personal relationship with them and it's clear that the invitation is motivated by the friendship and not your EPA position. Just bear in mind that you may have to check to see whether you can claim per diem for that meal since you didn't actually pay for it. If you want to know the ethics regulation that applies here, it's found in 5 CFR 2635, Subpart B, Gifts From Outside Sources (revisions effective 1/1/17).

2) Not sure whether you want to give gifts to the Administrator or accept gifts from him, but because you are both employees, we have to apply a different provision of the ethics rules. He can't accept a gift of more than \$10 from you, and you can't give a gift of more than \$10 to him. The typical exception here is for "special or infrequent occasions" (never a recurring holiday or anniversary), and there is not an exception for "longstanding friend." For these rules, go to 5 CFR 2635, Subpart C, Gifts Between Employees.

Safe travels,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth  
**Sent:** Tuesday, April 11, 2017 9:10 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Cc:** Munoz, Charles <munoz.charles@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>  
**Subject:** Re: Ethics Training with Ken Wagner

Justina:

I am traveling alone and am not letting anyone buy me anything! I will let the Administrator know of the hard hat issue. The Mine he is visiting is planning on giving him a Hard Hat this week. Can you coordinate? Talk to Tate Bennett.

My ethics questions will mostly be related to those I have had 20+ year relationships with such as dinners at homes, etc... (law school roommate, etc.) or the Administrator with whom I have been friends for 20 years?

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Apr 11, 2017, at 5:59 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Hi Ken,

The downside of not having a chance to do your ethics training is that I have no way of knowing whether you are facing ethics challenges as you carry out your EPA duties. I certainly hope not! Do bear in mind that the Administrator signed the Trump ethics pledge so he cannot accept any gift whatsoever from a federally registered lobbyist (including, for example, a hard hat with his name stenciled on the back). I will be in the office on Tuesday, 4/25 (but not on Monday, 4/24), so go ahead and suggest a time that week when we can meet. We need an hour.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth  
**Sent:** Tuesday, April 11, 2017 8:27 PM  
**To:** Munoz, Charles <[munoz.charles@epa.gov](mailto:munoz.charles@epa.gov)>  
**Cc:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>; Ford, Hayley <[ford.hayley@epa.gov](mailto:ford.hayley@epa.gov)>; Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>  
**Subject:** Re: Ethics Training with Hayley Ford, Deputy White House Liaison

Charles and Justina:

I am on a long road trip for the Administrator visiting 5 regions over the next two weeks. I do not return to the office until Monday, April 24. I would like to schedule my ethics training during that week if it works?

Thanks for working with me....

Ken

Kenneth E. Wagner



*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Apr 11, 2017, at 8:41 AM, Munoz, Charles <[munoz.charles@epa.gov](mailto:munoz.charles@epa.gov)> wrote:

<meeting.ics>

**From:** Fugh, Justina  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Accepted: Ethics Training with Amy Graham, Deputy Associate Administrator for Public Engagement; Troy Lyons, Associate Administrator (OCIR) and Kenneth Wagner  
**Start Date/Time:** Wed 4/5/2017 2:00:00 PM  
**End Date/Time:** Wed 4/5/2017 3:00:00 PM

**From:** Fugh, Justina  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Accepted: Ethics Training with Lincoln Ferguson, Speechwriter; Amanda Gunasekara, Senior Policy Advisor; Elizabeth Tate, Senior Advisor; Kenneth Wagner, Senior Advisor for Regional & State Affairs; Jahan Wilcox, Strategic Communications Advisor  
**Start Date/Time:** Wed 3/22/2017 2:00:00 PM  
**End Date/Time:** Wed 3/22/2017 3:30:00 PM

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Fri 7/7/2017 3:14:01 AM  
**Subject:** Fwd: Speaking event in Tulsa

Justina:

Hope you are well. I received this invitation to speak and it is a bit different from others. The link below explains the conference. Take a look and give me your learned and sage opinion...Thanks!

Ken

Kenneth E. Wagner  
*Senior Advisor to the Administrator  
For Regional & State Affairs*  
**US Environmental Protection Agency**  
Office: 202-564-1988  
Cell: 202-309-2418  
[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

Begin forwarded message:

**From:** Dave Hughes <[DHUGHES@mcclroy.com](mailto:DHUGHES@mcclroy.com)>  
**Date:** June 26, 2017 at 9:01:29 AM EDT  
**To:** Ken Wagner <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>  
**Subject:** Speaking event in Tulsa

Ken, hopefully, you were in Tulsa this weekend to enjoy the nice weather. Just wanted to confirm that you (or someone in your group) would be able to speak at INFUSION on Sept 21st. Just in case you were thinking of the Director (and purely your call), there will be about 300 in attendance (mostly CEOs and other high level managers). It will be a very friendly audience, 80% will be from the US. The big industries that they serve are Oil & Gas, water infrastructure and mining. I think the message that resonated with me when we spoke was that the new EPA is for both industry and protecting the environment and that water protection/conservation is still an important role for the EPA (especially as it relates to infrastructure). See the link below is some more information. You are more than welcome to join us on the 19th (evening) and the 20th.

[www.mcclroy.com/infusion](http://www.mcclroy.com/infusion)

**To:** Fort, Daniel[Fort.Daniel@epa.gov]  
**Cc:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Mon 7/17/2017 2:55:06 PM  
**Subject:** Re: Form 278 New Entrant Report

Will do...as a question, please confirm what is my "reporting period"

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

*For Regional and State Affairs*

**U S Environmental Protection Agency**

**202-564-1988 office**

**202-309-2418 cell**

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Jul 17, 2017, at 8:35 AM, Fort, Daniel <Fort.Daniel@epa.gov> wrote:

As your extension runs out tomorrow, I recommend that you submit your report and then we'll review it for both completeness and conflicts. To submit the report, enter into Integrity and click on "update" for your report. On the left side of the screen, you'll see a "submit" option. Click on that, scroll to the bottom of the screen, attest the report, and click on the submit button.

**From:** Wagner, Kenneth  
**Sent:** Sunday, July 16, 2017 10:16 AM  
**To:** Fort, Daniel <Fort.Daniel@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** Form 278 New Entrant Report

Justina/Daniel:

I hope all is well and ethical in your world. Thanks so much for the extensions to gather the information needed to properly fill out my Form 278 New entrant's report.

I believe that my submissions are complete and need review before submission. I am only in town on Monday and Tuesday, but I am scheduled to speak at the ECOS meeting on both days and SLC on Tuesday so time may be a premium. Let me know what you need to review my draft report so we can get completed.

I really appreciate you guys!

Ken

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

*For Regional and State Affairs*

**US Environmental Protection Agency**

**202-564-1988 office**

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** **Ex. 6 - Personal Privacy**  
**From:** Wagner, Kenneth  
**Sent:** Tue 8/22/2017 12:27:46 AM  
**Subject:** Re: here are all of the questions I have about your financial disclosure report.

Justina:

## Ex. 6 - Personal Privacy

Let me know what else you need on that before I update the form.

Thanks,

Ken

Kenneth E. Wagner  
*Senior Advisor to the Administrator  
For Regional & State Affairs*  
**US Environmental Protection Agency**  
Office: 202-564-1988  
Cell: 202-309-2418  
[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Aug 20, 2017, at 6:05 PM, Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)> wrote:

Justina:

Thanks so much for working with me on this. I know we will need to put these responses into the form, but wanted you to view these first to see if I'm on the right track. Hopefully, we can visit this week.

Thanks for all your help.

Ken  
(Responses in Red)

---

**From:** Fugh, Justina  
**Sent:** Friday, August 18, 2017 2:23 PM  
**To:** Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>  
**Subject:** here are all of the questions I have about your financial disclosure report.

Comments of Reviewing Officials

PART	#	REFERENCE	COMMENT
------	---	-----------	---------

# Ex. 6 - Personal Privacy



# **Ex. 6 - Personal Privacy**

# **Ex. 6 - Personal Privacy**

# **Ex. 6 - Personal Privacy**

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Tue 9/19/2017 2:53:39 AM  
**Subject:** RE: here are all of the questions I have about your financial disclosure report.

Justina:

My Report should be complete and I have responded to all your questions and added all of my clients for the reporting period.

Thanks and let me know what you need.

Ken

**Kenneth E. Wagner**

*Senior Advisor to the Administrator*

*For Regional and State Affairs*

**US Environmental Protection Agency**

**202-564-1988 office**

**202-309-2418 cell**

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

**From:** Fugh, Justina  
**Sent:** Friday, August 18, 2017 2:40 PM  
**To:** Wagner, Kenneth <wagner.kenneth@epa.gov>  
**Subject:** RE: here are all of the questions I have about your financial disclosure report.

OH NO! That's totally my fault! I just realized that I failed to hit "submit" to send the report back to you! DRAT!

**From:** Wagner, Kenneth  
**Sent:** Friday, August 18, 2017 11:24 AM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** Re: here are all of the questions I have about your financial disclosure report.

Justina: I never got any notification of the questions on the financial report...this is the first I've heard. I will get on them.

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Aug 18, 2017, at 12:23 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Comments of Reviewing Officials

**Ex. 6 - Personal Privacy**

# **Ex. 6 - Personal Privacy**

## **Ex. 6 - Personal Privacy**

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Fri 8/18/2017 6:48:36 PM  
**Subject:** Re: here are all of the questions I have about your financial disclosure report.

Well, I'm glad I wasn't ignoring some earlier request! Those questions should be simple and I was probably over inclusive just to be safe.

Have a great weekend.

Ken

Kenneth E. Wagner  
*Senior Advisor to the Administrator*  
*For Regional & State Affairs*  
**US Environmental Protection Agency**  
Office: 202-564-1988  
Cell: 202-309-2418  
[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Aug 18, 2017, at 12:40 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

OH NO! That's totally my fault! I just realized that I failed to hit "submit" to send the report back to you! DRAT!

**From:** Wagner, Kenneth  
**Sent:** Friday, August 18, 2017 11:24 AM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** Re: here are all of the questions I have about your financial disclosure report.

Justina: I never got any notification of the questions on the financial report...this is the first I've heard. I will get on them.

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**



Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

On Aug 18, 2017, at 12:23 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Comments of Reviewing Officials

PART	REFERENCE	COMMENT
<div data-bbox="289 1267 1523 1375"><h1>Ex. 6 - Personal Privacy</h1></div>		

# **Ex. 6 - Personal Privacy**

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Wagner, Kenneth  
**Sent:** Fri 8/18/2017 1:46:21 PM  
**Subject:** Fwd: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Justina:

Hope you are well. This invite just came to me as well as the opportunity to speak on the 31st. The original invite was for the Administrator who will be on travel in Australia, so they really wanted a speaker and settled for the B-team.!

Anyway, I believe they will pay for my room as they have made the reservation at the Greenbrier...so there's the room and the dinner. I am told that I will be seated with Senator Moore-Capito

Let me know what issues exist....Thanks as always for your help.

Ken

Kenneth E. Wagner  
*Senior Advisor to the Administrator  
For Regional & State Affairs*  
**US Environmental Protection Agency**  
Office: 202-564-1988  
Cell: 202-309-2418  
[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

Begin forwarded message:

**From:** Steve Roberts <[sroberts@wvchamber.com](mailto:sroberts@wvchamber.com)>  
**Date:** August 18, 2017 at 6:35:45 AM PDT  
**To:** "[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)" <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>  
**Subject:** Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Dear Mr. Wagner,

Thank you for being a part of the West Virginia Chamber's 2017 Annual Meeting and Business Summit. We are so pleased to have you joining the 81<sup>st</sup> annual gathering of West Virginia leaders.

As our honored guest, we would like to invite you to join us for a special dinner to meet our Board and major sponsors. This invitation only event is held at the beautiful Howard's Creek Lodge. It will be a fun filled evening with the pleasant company of friends. We look forward to you joining us. Please RSVP to Kathy Thomas at your earliest convenience. Shuttles will begin departing the North Entrance following Vice President Pence's remarks in Colonial Hall.

This meeting, much like our state, is exciting, dynamic and growing! Thank you again for your participation! I hope you can join us for us for this special occasion on Wednesday evening.



The West Virginia Chamber of Commerce  
cordially invites you  
to attend an invitation only

## **Major Sponsors Dinner**

Wednesday, August 30, 2017

7:45 p.m.

**Howard's Creek Lodge**

Shuttles to begin departing from North Entrance at  
7:30 p.m.

Please RSVP to Kathy Thomas at  
[kthomas@wvchamber.com](mailto:kthomas@wvchamber.com)



**Steve Roberts**

1624 Kanawha Blvd. East  
Charleston, WV 25311

main: 304-342-1115 • fax: 304-342-1130

[sroberts@wvchamber.com](mailto:sroberts@wvchamber.com) • [www.wvchamber.com](http://www.wvchamber.com)

This communication is a confidential and proprietary business communication intended solely for the use of the designated recipient(s). If you have received this communication in error, please delete it and contact the sender.

**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 7/7/2017 11:45:28 PM  
**Subject:** RE: Speaking event in Tulsa

Hi Ken,

Assuming that your managers agree that attending this event is a good use of EPA time and resources, then I don't have any ethics objections. You will be speaking in your official capacity and, as it happens, Mcelroy is not a federally registered lobbyist (which matters more now that you will soon be a political appointee!). The invitation does not indicate that they are offering to pay for you, so remember that you can't solicit the gift of travel. If you are offered any gifts, including free meals or a conference fee waiver, let me know so that I can help you with an ethics travel form.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth  
**Sent:** Thursday, July 06, 2017 11:14 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** Fwd: Speaking event in Tulsa

Justina:

Hope you are well. I received this invitation to speak and it is a bit different from others. The link below explains the conference. Take a look and give me your learned and sage opinion...Thanks!

Ken

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

Begin forwarded message:

**From:** Dave Hughes <[DHUGHES@mcelroy.com](mailto:DHUGHES@mcelroy.com)>

**Date:** June 26, 2017 at 9:01:29 AM EDT

**To:** Ken Wagner <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>

**Subject: Speaking event in Tulsa**

Ken, hopefully, you were in Tulsa this weekend to enjoy the nice weather. Just wanted to confirm that you (or someone in your group) would be able to speak at INFUSION on Sept 21st. Just in case you were thinking of the Director (and purely your call), there will be about 300 in attendance (mostly CEOs and other high level managers). It will be a very friendly audience, 80% will be from the US. The big industries that they serve are Oil & Gas, water infrastructure and mining. I think the message that resonated with me when we spoke was that the new EPA is for both industry and protecting the environment and that water protection/conservation is still an important role for the EPA (especially as it relates to infrastructure). See the link below is some more information. You are more than welcome to join us on the 19th (evening) and the 20th.

[www.mcelroy.com/infusion](http://www.mcelroy.com/infusion)



**To:** Wagner, Kenneth[wagner.kenneth@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Fri 8/18/2017 6:22:53 PM  
**Subject:** RE: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017  
[paper ET blank form.pdf](#)

Hi Ken,

Yes, you can attend the event, but you will need to get ethics approval for the room and the meal. Do you know how to do that electronically? If not, then fill out the attached form and pdf it to me so that I can enter the information for you and approve it. But I really really need you to finish your financial disclosure report! I returned it to you through INTEGRITY on 7/26 with a bunch of questions. I'll put those questions into an email and push that out to you again now.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Wagner, Kenneth  
**Sent:** Friday, August 18, 2017 6:46 AM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Subject:** Fwd: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017

Justina:

Hope you are well. This invite just came to me as well as the opportunity to speak on the 31st. The original invite was for the Administrator who will be on travel in Australia, so they really wanted a speaker and settled for the B-team.!

Anyway, I believe they will pay for my room as they have made the reservation at the Greenbrier...so there's the room and the dinner. I am told that I will be seated with Senator Moore-Capito

Let me know what issues exist....Thanks as always for your help.

Ken

Kenneth E. Wagner

*Senior Advisor to the Administrator*

*For Regional & State Affairs*

**US Environmental Protection Agency**

Office: 202-564-1988

Cell: 202-309-2418

[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)

Begin forwarded message:

**From:** Steve Roberts <[sroberts@wvchamber.com](mailto:sroberts@wvchamber.com)>

**Date:** August 18, 2017 at 6:35:45 AM PDT

**To:** "[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)" <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>

**Subject: Major Sponsors Dinner Invitation, Wednesday, August 30, 2017**

Dear Mr. Wagner,

Thank you for being a part of the West Virginia Chamber's 2017 Annual Meeting and Business Summit. We are so pleased to have you joining the 81<sup>st</sup> annual gathering of West Virginia leaders.

As our honored guest, we would like to invite you to join us for a special dinner to meet our Board and major sponsors. This invitation only event is held at the beautiful Howard's Creek Lodge. It will be a fun filled evening with the pleasant company of friends. We look forward to you joining us. Please RSVP to Kathy Thomas at your earliest convenience. Shuttles will begin departing the North Entrance following Vice President Pence's remarks in Colonial Hall.

This meeting, much like our state, is exciting, dynamic and growing! Thank you again for your participation! I hope you can join us for us for this special occasion on Wednesday evening.



The West Virginia Chamber of Commerce  
cordially invites you  
to attend an invitation only

## **Major Sponsors Dinner**

Wednesday, August 30, 2017

7:45 p.m.

**Howard's Creek Lodge**

Shuttles to begin departing from North Entrance at  
7:30 p.m.

Please RSVP to Kathy Thomas at  
[kthomas@wvchamber.com](mailto:kthomas@wvchamber.com)



**Steve Roberts**

1624 Kanawha Blvd. East  
Charleston, WV 25311

main: 304-342-1115 • fax: 304-342-1130

[sroberts@wvchamber.com](mailto:sroberts@wvchamber.com) • [www.wvchamber.com](http://www.wvchamber.com)

This communication is a confidential and proprietary business communication intended solely for the use of the designated recipient(s). If you have received this communication in error, please delete it and contact the sender.



## ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

Date

Keneth E. Wagner  
Print or type your full name (last, first, middle)

April 26, 2017

**Kenneth Wagner OA**



**New Employee**  
**Ethics Training**

**Certified by: Justina Fugh**

**Certificate Dated: 04/26/2017**

**Certificate ID Number: JFUH-ALV2K6**

**Full Organization: OA**

According to the EPA Domino Directory,  
Contact your local Help Desk if this  
organizational information is not correct.

The White House  
Office of the Press Secretary  
For Immediate Release  
January 28, 2017

# **Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES**

EXECUTIVE ORDER

- - - - -

## **ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES**

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political



party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP



## ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

\_\_\_\_\_  
Signature

\_\_\_\_\_, 20\_\_\_\_  
Date

\_\_\_\_\_  
Print or type your full name (last, first, middle)

**From:** Munoz, Charles  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Ethics Training with Lincoln Ferguson, Speechwriter; Amanda Gunasekara, Senior Policy Advisor; Elizabeth Tate, Senior Advisor; Kenneth Wagner, Senior Advisor for Regional & State Affairs; Jahan Wilcox, Strategic Communications Advisor  
**Start Date/Time:** Wed 3/22/2017 2:00:00 PM  
**End Date/Time:** Wed 3/22/2017 3:30:00 PM



**To:** Bolen, Brittany[bolen.brittany@epa.gov]  
**Cc:** Fugh, Justina[Fugh.Justina@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Fri 4/14/2017 8:14:42 PM  
**Subject:** Re: possible recusal issue for you?

Also I would add that the brief represented congress's view of the CPP based on publicly available information. We were not privy to any confidential material regarding the litigation.

Sent from my iPhone

On Apr 14, 2017, at 3:41 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:

Mandy and I would like your clarification in regards to WV v. EPA. We were not privy to any confidential information. The amicus brief was written and filed by an outside law firm on behalf of members of congress, not the Environment and Public Works Committee.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:32 PM  
**To:** Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** RE: possible recusal issue for you?

Thanks for the confirmation!

**From:** Brown, Byron  
**Sent:** Friday, April 14, 2017 3:30 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>  
**Subject:** RE: possible recusal issue for you?

I did not work on these amicus briefs and was not privy to confidential information about these cases or briefs.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:11 PM  
**To:** Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Subject:** possible recusal issue for you?

Hi there,

I have learned that DOJ is advising that some of their appointees recuse from certain cases in which members of Congress filed amicus briefs during the last several years. Their appointees have recused from any participation in these cases:

- ☐ Kent Recycling Services v. US Army Corps of Engineers, U.S. Supreme Court, No. 14-493
- ☐ American Farm Bureau Fed. v. USEPA, Third Circuit Court of Appeals, No. 13-4079 (docket attached)
- ☐ West Virginia v. EPA (see Brief of 200+ members of Congress)

What I don't know is whether you all, who also worked for the Senate in the last several years, should similarly be recused. Did you work on or were privy to confidential client information with respect to any of these cases?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**To:** Fugh, Justina[Fugh.Justina@epa.gov]  
**Cc:** Fort, Daniel[Fort.Daniel@epa.gov]  
**From:** Mandy Gunasekara  
**Sent:** Wed 3/15/2017 8:18:50 PM  
**Subject:** Re: Your ethics obligations for your EPA position

Thank you for the information. I'll get to work on it soon and be in touch.

Best,  
Mandy

On Wed, Mar 15, 2017 at 1:36 PM, Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)> wrote:

Dear Mandy,

My name is Justina Fugh, and I am the Senior Counsel for Ethics at the US Environmental Protection Agency. I understand that you are being considered for an Administratively Determined (AD) position as Policy Advisor to the Administrator. Congratulations! In this position, you will be required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. My office reviews your information to assess any possible ethics implications. Although we can ask you to start filling out the report now, it is officially due no later than 30 days after you start at EPA. That said, until you complete the report, we won't have a handle on your possible conflicts issues and can't write a recusal statement for you, which may affect what you work on initially.

EPA uses an entirely electronic filing system (called [INTEGRITY.gov](http://INTEGRITY.gov) or INTEGRITY), so you will file the form (called the OGE 278e) electronically. You are required by law to complete the form, so please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

#### THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured

by the Office of Government Ethics (OGE). For now, we will use your personal email address for your user ID but after next week, when you have an EPA email address, we can change the user ID to your EPA address. You will be assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> .

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government's [max.gov](http://max.gov) site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

## DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

## HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset

separately and give the valuation and amount of accrued investment income. The definition of “investment income” is NOT tied to what’s taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.

- Do not report your federal salary, your spouse’s federal salary, or Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the “nothing to report” button

## OTHER ETHICS REQUIREMENTS FOR YOU

### STOCK ACT

Because you are required to file the form, you are also subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at [http://intranet.epa.gov/ogc/ethics/Ethics\\_Advisory\\_2012-03.pdf](http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf) and our revised chart, also attached.

### HATCH ACT

You will be “lesser restricted” under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet (inside the firewall), can gain a good overview by reviewing our online training course at

<http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

## CONTACTS

Dan Fort, Rich Lumley, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at [ethics@epa.gov](mailto:ethics@epa.gov) or individually at:

Jeanne Duross, Ethics Attorney, [duross.jeanne@epa.gov](mailto:duross.jeanne@epa.gov) or [202-564-6595](tel:202-564-6595)

Daniel Fort, Ethics Officer, [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or [202-564-2200](tel:202-564-2200)

Justina Fugh, Senior Counsel for Ethics, [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or [202-564-1786](tel:202-564-1786)

Rich Lumley, Ethics Officer, [lumley.rich@epa.gov](mailto:lumley.rich@epa.gov) or [202-564-1453](tel:202-564-1453)

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone [202-564-1786](tel:202-564-1786) | fax [202-564-1772](tel:202-564-1772)

**To:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Wed 4/19/2017 12:03:29 AM  
**Subject:** RE: possible recusal issue for you?

Hi,

## Ex. 6 - Personal Privacy

Did you/Mandy assist Jeff in writing the brief? Sounds like you did not, so that would be distinguishable and not a concern for you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Bolen, Brittany  
**Sent:** Tuesday, April 18, 2017 7:42 PM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Gunasekara, Mandy  
<Gunasekara.Mandy@epa.gov>  
**Subject:** RE: possible recusal issue for you?

Justina – **Ex. 6 - Personal Privacy**

**Ex. 6 - Personal Privacy** No rush on responding, just let me know when you have time to discuss this further.  
In the interim, I would say that we are easily distinguishable from Jeff Wood as Jeff was the author and the attorney filing the brief. Also, in regards to the brief being submitted on behalf of members of Congress, I raised that issue because Mandy and I were employed by the Senate Committee on Environment and Public Works – not any of the individual senators who signed the brief.

Brittany

**From:** Fugh, Justina  
**Sent:** Tuesday, April 18, 2017 6:58 PM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Subject:** RE: possible recusal issue for you?

Hi Brittany and Mandy,

## Ex. 6 - Personal Privacy

With respect to these cases, I know (for example) that the Justice Department advised Jeff Wood to recuse from the Clean Power Plan litigation because he filed briefs on behalf of Congressional members. Even though the members were not themselves 'parties' to the litigation, I expect that the DOJ attorneys are concerned about their bar obligations and want to avoid situations in which client secrets are revealed inappropriately.

I was trying to ascertain whether any of the EPA appointees participated in drafting, reviewing or commenting on any of the amicus briefs filed in cases in which EPA is a party. If so, then you may need to examine your bar rules.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



**From:** Bolen, Brittany  
**Sent:** Monday, April 17, 2017 6:04 PM  
**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>  
**Subject:** FW: possible recusal issue for you?

Hi Justina – I hope you had a good weekend. I just wanted to follow-up on this email correspondence. Do you have further guidance on how “work” is defined in the case we describe below? Thanks.

Brittany

**From:** Gunasekara, Mandy  
**Sent:** Friday, April 14, 2017 4:15 PM  
**To:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>  
**Cc:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>  
**Subject:** Re: possible recusal issue for you?

Also I would add that the brief represented congress's view of the CPP based on publicly available information. We were not privy to any confidential material regarding the litigation.

Sent from my iPhone

On Apr 14, 2017, at 3:41 PM, Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)> wrote:

Mandy and I would like your clarification in regards to WV v. EPA. We were not privy to any confidential information. The amicus brief was written and filed by an outside law firm on behalf of members of congress, not the Environment and Public Works Committee.

**From:** Fugh, Justina  
**Sent:** Friday, April 14, 2017 3:32 PM  
**To:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Bolen, Brittany

<bolen.brittany@epa.gov>

**Subject:** RE: possible recusal issue for you?

Thanks for the confirmation!

**From:** Brown, Byron

**Sent:** Friday, April 14, 2017 3:30 PM

**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>

**Subject:** RE: possible recusal issue for you?

I did not work on these amicus briefs and was not privy to confidential information about these cases or briefs.

**From:** Fugh, Justina

**Sent:** Friday, April 14, 2017 3:11 PM

**To:** Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>

**Subject:** possible recusal issue for you?

Hi there,

I have learned that DOJ is advising that some of their appointees recuse from certain cases in which members of Congress filed amicus briefs during the last several years. Their appointees have recused from any participation in these cases:

- Kent Recycling Services v. US Army Corps of Engineers, U.S. Supreme Court, No. 14-493
- American Farm Bureau Fed. v. USEPA, Third Circuit Court of Appeals, No.

13-4079 (docket attached)

- [REDACTED] West Virginia v. EPA (see [Brief of 200+ members of Congress](#))

What I don't know is whether you all, who also worked for the Senate in the last several years, should similarly be recused. Did you work on or were privy to confidential client information with respect to any of these cases?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Fugh, Justina  
**Location:** 4308 WJC-N  
**Importance:** Normal  
**Subject:** Accepted: Ethics Training with Lincoln Ferguson, Speechwriter; Amanda Gunasekara, Senior Policy Advisor; Elizabeth Tate, Senior Advisor; Kenneth Wagner, Senior Advisor for Regional & State Affairs; Jahan Wilcox, Strategic Communications Advisor  
**Start Date/Time:** Wed 3/22/2017 2:00:00 PM  
**End Date/Time:** Wed 3/22/2017 3:30:00 PM

**To:** Ex. 6 - Personal Privacy  
**Cc:** Daniel Fort[Fort.Daniel@epa.gov]  
**From:** Fugh, Justina  
**Sent:** Wed 3/15/2017 5:36:47 PM  
**Subject:** Your ethics obligations for your EPA position  
Distinctions between Reporting Transactions on the OGE 278 - January 201....docx  
Hatch Act chart February 2017.docx

Dear Mandy,

My name is Justina Fugh, and I am the Senior Counsel for Ethics at the US Environmental Protection Agency. I understand that you are being considered for an Administratively Determined (AD) position as Policy Advisor to the Administrator. Congratulations! In this position, you will be required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. My office reviews your information to assess any possible ethics implications. Although we can ask you to start filling out the report now, it is officially due no later than 30 days after you start at EPA. That said, until you complete the report, we won't have a handle on your possible conflicts issues and can't write a recusal statement for you, which may affect what you work on initially.

EPA uses an entirely electronic filing system (called INTEGRITY.gov or INTEGRITY), so you will file the form (called the OGE 278e) electronically. You are required by law to complete the form, so please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

#### THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). For now, we will use your personal email address for your user ID but after next week, when you have an EPA email address, we can change the user ID to your EPA address. You will be assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> .

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

## DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

## HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan

- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the “nothing to report” button

## OTHER ETHICS REQUIREMENTS FOR YOU

### STOCK ACT

Because you are required to file the form, you are also subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at [http://intranet.epa.gov/ogc/ethics/Ethics\\_Advisory\\_2012-03.pdf](http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf) and our revised chart, also attached.

### HATCH ACT

You will be “lesser restricted” under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet (inside the firewall), can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

-

### CONTACTS

Dan Fort, Rich Lumley, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at [ethics@epa.gov](mailto:ethics@epa.gov) or individually at:

Jeanne Duross, Ethics Attorney, [duross.jeanne@epa.gov](mailto:duross.jeanne@epa.gov) or 202-564-6595

Daniel Fort, Ethics Officer, [fort.daniel@epa.gov](mailto:fort.daniel@epa.gov) or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, [fugh.justina@epa.gov](mailto:fugh.justina@epa.gov) or 202-564-1786

Rich Lumley, Ethics Officer, [lumley.rich@epa.gov](mailto:lumley.rich@epa.gov) or 202-564-1453

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308  
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the  
zip code) | phone 202-564-1786 | fax 202-564-1772



**Mandy Gunasekara OA**



**New Employee  
Ethics Training**

**Certified by: Justina Fugh**

**Certificate Dated: 03/22/2017**

**Certificate ID Number: JFUH-AKysel**

**Full Organization: OA**

According to the EPA Domino Directory,  
Contact your local Help Desk if this  
organizational information is not correct.

## Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

**Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”**

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
<b>Personal (off premises and off duty)</b>			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
<b>Affecting Official Resources</b>			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
<b>Fundraising</b>			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

\*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service

# When to Report Transactions

This table's guidance is effective beginning January 1, 2013 and for informational purposes only. Email [ethics@epa.gov](mailto:ethics@epa.gov) for specific questions.

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on the OGE 278?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes <sup>1</sup>
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds" <sup>2</sup>	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust <sup>3</sup>	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

---

<sup>1</sup> You do not report the purchase or sale of your personal residence on Schedule B unless you rent it out at any time during the reporting period.

<sup>2</sup> To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

There are several types of investment vehicles that are not excepted investment funds, including (but not limited to) managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs). You should note that the individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. If you have questions about whether a particular asset or investment vehicle is an EIF, contact [ethics@epa.gov](mailto:ethics@epa.gov).

<sup>3</sup> OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email [ethics@epa.gov](mailto:ethics@epa.gov).